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Attorneys for Defendants

BANK OF NEW YORK TRUST COMPANY, N.A., as successor Trustee to JPMorgan Chase Bank, as original Trustee for the MERRILL LYNCH MORTGAGE INVESTORS SURF TRUST SERIES 2005-ABI; BANK OF AMERICA, N.A., as successor by merger to BAC HOME LOANS SERVICING, LP; RECONTRUST COMPANY, N.A.; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

MUHAMED ALMUTARREB and SOPHIA  
 ALMUTARREB,

Plaintiffs,

vs.

BANK OF NEW YORK TRUST COMPANY,  
 N.A., as successor Trustee to JPMORGAN  
 CHASE BANK, as original Trustee for the  
 MERRILL LYNCH MORTGAGE  
 INVESTORS SURF TRUST SERIES 2005-  
 AB1; BAC HOME LOAN SERVICING, LP;  
 RECONTRUST COMPANY, N.A.,  
 MORTGAGE ELECTRONIC  
 REGISTRATION SYSTEMS; AND DOES 1-  
 100, INCLUSIVE,

Defendants

Case No. C12-03061-EMC

Judge: The Hon. Edward M. Chen

**STIPULATION TO CONTINUE THE  
 CASE MANAGEMENT CONFERENCE  
 AND [PROPOSED] ORDER**

Date Action Filed: June 14, 2012  
 Trial Date: None set.

BRYAN CAVE LLP  
 333 MARKET STREET, 25<sup>TH</sup> FLOOR  
 SAN FRANCISCO, CA 94105

**TO THE COURT IN THE ABOVE ENTITLED ACTION:**

Defendants Bank of New York Trust Company, N.A., as successor Trustee to JPMorgan Chase Bank, as original Trustee for the Merrill Lynch Mortgage Investors Surf Trust Series 2005-ABI; Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, LP; ReconTrust Company, N.A.; Mortgage Electronic Registration Systems, Inc., and Plaintiffs Muhamed Almutarreb and Sophia Almutarreb (collectively “Parties”) by and through their counsel of record, hereby enter into the following stipulation to continue the Case Management Conference.

WHEREAS, On June 14, 2012 Plaintiffs Muhamed Almutarreb and Sophia Almutarreb (“Plaintiffs”) filed a complaint against Defendants Bank of New York Trust Company, N.A., as successor Trustee to JPMorgan Chase Bank, as original Trustee for the Merrill Lynch Mortgage Investors Surf Trust Series 2005-ABI; Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, LP; ReconTrust Company, N.A.; Mortgage Electronic Registration Systems, Inc. (“Defendants”).

WHEREAS, On July 16, 2012, Defendants filed a Motion to Dismiss Plaintiffs’ Complaint, pursuant to Federal Rules of Civil Procedure 12(b)(6). The Motion to Dismiss was scheduled to be heard on . However, on September 24, 2012 the Court determined that the matters were appropriate for resolution without oral argument and vacated the hearing, pursuant to Civil Local Rule 7-1(b). The Court denied Defendants’ motion to dismiss as to Plaintiffs’ claim under Civil Code §2923.5 and Granted with prejudice as to all remaining claims except for claims for violation of FDCPA, RESPA, Quiet Title, Wrongful Foreclosure under Civil Code §2923.6 and Accounting, which were dismissed with prejudice. Plaintiffs were ordered to file an amended complaint within 30 days of the date of the September 24, 2012 Order, or by October 24, 2012.

WHEREAS, Plaintiffs intend to file an amended complaint.

1 WHEREAS, Counsel to Defendants have agreed to allow Plaintiffs an additional fourteen  
2 (14) days to file their amended complaint due to an extensive workload. Which would require  
3 Plaintiffs to file their amended complaint by November 7, 2012.

4 WHEREAS, Counsel to Plaintiffs have agreed to allow Defendants to file and serve an  
5 Answer to the Civil Code §2923.5 claim and a response to the First Amended Complaint, within  
6 21 days after the First Amended Complaint is filed and served.

7 WHEREAS, The initial Case Management Conference (“CMC”) is currently scheduled for  
8 hearing in this Court on October 26, 2012.

9 WHEREAS, Good cause exists to continue the CMC because the pleadings are not at issue  
10 given that an amended complaint has not been filed. Without an operative pleading, a CMC is  
11 premature at this time because the Parties will be unable to engage in any reasonable discussion  
12 regarding the legal issues, anticipated motions, a proposed discovery plan, initial disclosures, and  
13 settlement.  
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1 WHEREFORE, the Parties, by and through their respective counsel of record, hereby agree  
 2 and request this Court to continue the CMC for an additional 30 to 60 days, or to a date that is  
 3 convenient for the Court. A Joint Case Management Statement will be filed seven (7) days before  
 4 the date of the continued CMC.  
 5

6 **IT IS SO STIPULATED.**  
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8 Dated: October 15, 2012

**BRYAN CAVE LLP**

By: /s/ Michelle M. Cammarata

Michelle M. Cammarata  
 Attorneys for Defendants BANK OF NEW  
 YORK TRUST COMPANY, N.A., as  
 successor Trustee to JPMorgan Chase Bank,  
 as original Trustee for the MERRILL  
 LYNCH MORTGAGE INVESTORS SURF  
 TRUST SERIES 2005-ABI; BANK OF  
 AMERICA, N.A., as successor by merger to  
 BAC HOME LOANS SERVICING, LP;  
 RECONTRUST COMPANY, N.A.;  
 MORTGAGE ELECTRONIC  
 REGISTRATION SYSTEMS, INC.

18 Dated: October 15, 2012

**LAW OFFICE OF JASON ESTAVILLO**

By: /s/ Jason W. Estavillo

Jason W. Estavillo  
 Attorney for Plaintiffs  
 Muhamed and Sophia Almutarreb

BRYAN CAVE LLP  
 333 MARKET STREET, 25<sup>TH</sup> FLOOR  
 SAN FRANCISCO, CA 94105

**[PROPOSED] ORDER**

Having reviewed the above stipulation of Defendants Bank of New York Trust Company, N.A., as successor Trustee to JPMorgan Chase Bank, as original Trustee for the Merrill Lynch Mortgage Investors Surf Trust Series 2005-ABI; Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, LP; ReconTrust Company, N.A.; Mortgage Electronic Registration Systems, Inc. ("Defendants"), and Plaintiffs Muhamed Almutarreb and Sophia Almutarreb ("Plaintiffs") and good cause appearing therefore, the Case Management Conference scheduled for October 26, 2012 is hereby continued to January 3, 2013 at 9:00 a.m./~~p.m.~~ and Plaintiffs' amended complaint must be filed no later than November 7, 2012.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: October 18, 2012

